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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------------|---------------------|------------------|
| 09/800,169 | 03/05/2001 | Conor McGann | 0544MH-40063 | 3595 |
| 7590 06/07/2004 | | | | |
| CHRISTOPHER W KENNERLY ESQ BAKER BOTTS LLP 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980 | | EXAMINER KENNEDY, LESA M | | |
| | | ART UNIT 2151 | | PAPER NUMBER |
| DATE MAILED: 06/07/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/800,169

Applicant(s)

MCGANN ET AL.

Examiner

Lesa Kennedy

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/20/01 and 1/7/02.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Remarks

1. This action is responsive to the application filed on March 5, 2001. Claims 1-7 are pending examination. Claims 1-7 are directed towards a messaging system and method.
2. Some of the references cited by the examiner are not included in this action since they were already provided by the applicant in relation to the PCT Written Opinion for international application no. PCT/US01/40256, submitted as a part of this application.
3. The oath or declaration claims benefit of provisional application 60/172,279 filed on 12/17/199. However, this information is inconsistent with PTO records and the applicant's specification, which indicate priority to provisional application 60/187,342 filed on 3/6/00. The information in provisional application 60/172,279 is also inconsistent with the subject matter presented in the applicant's patent application specification. Applicant is requested to state the correct provisional application number and filing date for the record.

Specification

4. The abstract of the disclosure is objected to because:
 - a. It does not adequately discuss the subject matter of the dependent claims.
 - b. The second sentence is incomprehensible.

Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities:

The second sentence of the "Summary of the Invention" section is incomprehensible.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Birrell et al. (U.S. Patent No. 6,009,462) in view of Kawagoe et al. (U.S. Patent No. 5,961,595) for the reasons stated in the PCT Written Opinion for international application no. PCT/US01/40256.

8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godlewski (U.S. Patent No. 6,421,354) in view of Foladare et al. (U.S. Patent No. 6,373,926).

As to claim 1, Godlewski teaches a messaging system for a computer system, comprising:

a sending process, wherein the sending process generates a message to be sent [col. 12, lines 15-18; communicator as sending process];

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a receiving process, wherein the message is to be sent to the receiving process [col. 13, lines 3-6; customer as receiving process];

a local queue manager in communication with the sending and receiving processes [col. 12, lines 37-41; message and command handler as local queue manager]; and

a persistent storage device in communication with the local queue manager, and adapted to reliably store messages [col. 12, lines 38-45];

wherein the local queue manager stores each message received from the sending process to the persistent storage device [col. 12, lines 38-45].

Godlewski does not expressly teach the limitation of storing messages until they are removed; and wherein the receiving process removes each message from the persistent storage device after each message is received.

However, Foladare teaches of a centralized messaging system that sends messages from a sending party to the messaging services of the receiving party. Foladare teaches limitations of:

storing messages until they are removed [col. 4, line 63 – col. 5, line 2; Foladare discloses that messages are stored at messaging services until they have been accessed by the receiving party]; and

wherein the receiving process removes each message from the persistent storage device after each message is received [col. 4, line 63 – col. 5, line 2; Foladare discloses that messages are deleted from the messaging services after they have been accessed by the receiving party].

Godlewski and Foladare are analogous art because they relate to message delivery.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Godlewski in view of Foladare so as to delete messages after delivery to the intended recipients. One would be motivated to do so to save space in the storage device.

As to claim 2, the combination of Godlewski in view of Foladare teaches the system of claim 1, wherein a message writer removes each received message from the persistent storage device after sending it to the receiving process [col. 4, line 63 – col. 5, line 2; Foladare discloses that messages are deleted from the messaging services (persistent storage devices) after they have been sent to the receiving parties].

As to claim 3, the combination of Godlewski in view of Foladare teaches the system of claim 1, further comprising a message collector in communication with the sending process and the local queue manager, wherein the message collector receives a message from the sending process, and formats the message into a standard format for transport to the local queue manager and storage on the persistent storage device [col. 12, lines 15-20, 29-31, 37-41; Godlewski discloses that a transport interface (message collector) receives a message sent by the communicator (sending process), converts it into a common format and sends it to the message and command handler (local queue manager) for storage].

As to claim 4, the combination of Godlewski in view of Foladare teaches the system of claim 3, further comprising: at least one process, associated with the receiving process, for converting received message back into their original format from the standard format [col. 12, lines 23-30; Godlewski discloses that the transport interface receives messages transmitted in an Internet data format and converts it to a standard format; col. 12, lines 61-67; Godlewski

discloses that a dissemination system converts messages back to an Internet data format for transmission to the customer (receiving process)].

Claims 5 and 7 represent method claims that correspond to system claims 1 and 4, respectively. They do not teach or define any new limitations above claims 1 and 4, and therefore are rejected for similar reasons.

As to claim 6, the combination of Godlewski in view of Foladare teaches the system of claim 5, further comprising the step of: after storing the copy of the message on the persistent storage device, sending an acknowledgement thereof to the sending process [col. 7, lines 46-52; Godlewski discloses that the message and command handler (local queue manager) sends acknowledgements of received messages to the communicators (sending process)].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lesa Kennedy whose telephone number is (703) 305-8865. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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Andrew Caldwell
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